

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0269P

Use Tax

Calendar Years 1999 and 2000

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer operates a generation and transmission cooperative providing wholesale electric power to member distribution cooperatives. Taxpayer was previously audited for the tax years 1992 through 1994.

Upon audit it was found that the taxpayer failed to self assess use tax on clearly taxable items such as subscriptions, software, office supplies, construction materials, and other miscellaneous items.

In a letter dated May 13, 2002, taxpayer protests the penalty assessed.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that due to extraordinary circumstances surrounding this time period, its staff had to continue with its regular accounting duties as well as design and implement a new system. The staff unintentionally failed to accrue use tax on some transactions.

The audit indicates that the taxpayer failed to self assess use tax on 30.4% and 6% of its taxable

purchases for calendar years 1999 and 2000 respectively for items that were assessed in a previous audit. The percentage of error also increased from the prior audit. Taxpayer has not provided reasonable cause to allow a penalty waiver.

FINDING

Taxpayer's protest is denied.